

REMARKS

Claims 1 and 3-16, as amended, remain herein. Claims 8 and 11-16 are presently withdrawn from consideration.

Examiner's Interview of May 20, 2009

Applicant thanks the Examiner for conducting an interview with Applicant's representatives on May 20, 2009, although no agreement was reached regarding the rejection of the claims over Morris.

Finality of Office Action

Applicant's Amendment filed January 13, 2008 did not necessitate new grounds of rejection over Morris, and the finality of the Office Action dated March 23, 2009 was premature and should be withdrawn. See MPEP 706.07(a), (c).

Applicant amended claim 1 in the January 13 Amendment to recite a tapered inner wall to further clarify the limitation that a cross-sectional internal dimension at the inlet is smaller than a cross-sectional internal dimension at the outlet. The "cross-sectional" limitations existed in claim 1 prior to the January 13 Amendment.

In an interview on May 20, 2009 with Applicant's representatives, the Examiner agreed that Morris fails to explicitly disclose the language of claim 1 including "connecting a filler vessel and an unfilled vessel" and "forming a substantially airtight seal." The Examiner stated that, since this language was considered "functional" by the Examiner, it would not be given patentable weight.

Since the “tapered” limitation clarified “cross-sectional” language that was already in the claim, and since the Examiner did not give patentable weight to the remaining amendments in claim 1, the amendments to claim 1 in the January 13, 2008 Amendment did not necessitate the new grounds of rejection over Morris. Thus, issuance of a Final Office Action was premature, and Applicant asks that the Examiner withdraw the finality of the March 23, 2009 Office Action.

Rejections under 35 U.S.C. § 102(b)

1. Claims 1, 3-7, 9, and 10 were rejected under 35 U.S.C. § 102(b) over Morris U.S. Patent 4,598,844. However, since Morris fails to disclose every element of claims 1-3, 6, 7, 9 and 10, Applicant respectfully requests withdrawal of the rejection.

Morris fails to disclose at least two sealing connector sections, located on an inner surface of the dispenser device body proximate to the inlet end, and on an outer surface of the dispenser device body proximate to the outlet end, respectively, as recited in applicants’ amended claim 1. The Office Action cites a portion along the top of container 10 as being a first sealing connector and another portion at the top of container 10 as being a second sealing connector. However, both of these alleged “sealing connectors” are located on outside surfaces of the cap 12.

Further, neither of the alleged sealing connectors cited in the Office Action is proximate to the outlet end (top part of cap 12 closest to numeral 16), as recited in applicants’ amended claim 1. Claim 1 recites an inlet end at one end of a transport passage and an outlet end at the other end of the transport passage and sealing connector sections proximate to each end. The “sealing connectors” cited in the Office Action are both proximate to the inlet end (the Office Action cites apex 15 in Morris as an inlet end).

Morris further fails to disclose sealing connector sections for sealingly connecting a powder dispenser device with a filler vessel and an unfilled vessel, thereby forming a substantially airtight seal, as recited in applicants' claim 1. The Office Action alleges that container 10 is an "unfilled container," as recited in applicants' claim 1. However, this interpretation is unreasonable in light of the recited elements of applicants' claim 1. First, applicants' claim 1 recites that "a cross-sectional internal dimension at the inlet end of the transport passage is smaller than a cross-sectional internal dimension at the outlet end of the transport passage." If container 10 were an "unfilled container," the outer rim of cap member 12 would be considered an "inlet end," and an inner rim (near number 17) of cap member 12 would be considered an "outlet end" (i.e. where powder exits the device into the unfilled container). However, the outer rim of cap member 12 has a larger cross-sectional internal dimension than the inner rim of cap member 12.

Additionally, container 10 cannot be reasonably filled via cap member 12. Cap member 12 is intended to expel powders, such as salt or pepper by providing notches 32 in a spring 18. Thus, when a diner shakes the container 10, the spring expands, and powder that may be stuck in the notches 32 is expelled. The specification explicitly states that container 10 may be filled by removing the cap member 12 or opening a bottom of the container 10. See Morris, col. 2, lines 51-61.

Since container 10 cannot be the "unfilled container," recited in applicants' claim 1, Morris fails to disclose a powder dispenser device with sealing connector sections forming an airtight seal between an unfilled container and a filler vessel, as recited in applicants' claim 1. While cap member 12 of Morris is affixed to container 10, cap member 12 is not affixed to any

unfilled vessel. Nor does Morris disclose any mechanism for attaching cap member 12 to a second container, or creating an airtight seal between the container 10 and any other container.

Regarding claim 4, Morris fails to disclose a powder dispenser device with a transport passage that includes rounded shoulders at its inlet end. However, the specification of Morris discloses only that element 14 is an extending shoulder and element 15 is an apex. Neither the written description nor the figures disclose "rounded shoulders" at the inlet end of cap 12.

Since Morris fails to disclose every element of applicant's claims 1 and 4, Morris is an inadequate basis for rejecting claims 1, 3-7, 9, and 10 under 35 U.S.C. § 102(b). Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

CONCLUSION

Applicant asks that all claims be allowed. Please apply any charges or credits to deposit account 19-4293.

Respectfully submitted,

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